



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENT
LANSING



REBECCA A. HUMPHRIES
DIRECTOR

December 1, 2010

Mr. Regis Michrina, Chief Executive Officer
Durable Coatings Corp., Atlanta
170 Selig Drive SW
Atlanta, Georgia 30336

Dear Mr. Michrina:

SUBJECT: Violation Notice; Durable Coatings Corp. (Durable Coatings) - formerly Protec Coating, LLC, and formerly Waste Water Consulting & Management, LLC;
Site Identification No.: MIK 579 262 676.

On July 26, 2010, and October 27, 2010, Department of Natural Resources and Environment (DNRE), Environmental Resource Management Division (ERMD), staff performed inspections of Durable Coatings, located at 16580 and 16500 Northville Road, Northville, Michigan. The purpose of the completed inspections was to evaluate Durable Coatings' compliance with Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); Part 121, Liquid Industrial Wastes, of the NREPA; the corresponding requirements under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended (RCRA); and any administrative rules or regulations promulgated pursuant to these acts. A copy of the completed inspection forms can be obtained by contacting this office.

As a result of the completed inspections and reviews, the ERMD has determined that Durable Coatings is in violation of the following at the above-referenced location:

1. Rules 299.9302, 304, 307 and 311 of Part 111: Title 40 of the Code of Federal Regulations (CFR) §§262.11, 262.20, 262.40, and 268.7; Sections 12103(1)(a) of Part 121: Durable Coatings must properly characterize their generated waste to determine if those wastes are hazardous waste. Additionally, Durable Coatings must determine if any identified hazardous waste has to be treated before it can be land disposed (to include all listed and characteristic wastes generated). Copies of the waste characterizations and treatment requirements must be kept on site for not less than three years from the date that the waste was last sent to on-site or off-site treatment, storage, and/or disposal.

DNRE staff understand that Durable Coatings is not operating out of the reviewed location but that various tanks and containers are present on site that include waste liquids, to include pre-treatment waste water treatment plant (WWTP) sludge and supernatant and other various process waste liquids and process liquids and chemicals that have not been utilized in the electro coating operations that formerly took place at this location. Additionally, DNRE staff understands that the Durable Coatings' facility is attended to sporadically by a tenant within an adjoining business.

DNRE staff understands that Northville Township water service was terminated on September 30, 2010, and that the Ypsilanti Community Utilities Authority (YCUA) issued a Cease and Desist Order on July 7, 2010, disallowing discharging of process wastewater into the sanitary sewer system. DNRE staff understands as well that YCUA subsequently terminated the Durable Coatings non-sanitary wastewater industrial user permit, that termination effective September 30, 2010.

Inasmuch as Durable Coatings is not operating at the reviewed facility, as was evidenced by site visit findings and follow-up reviews, and in view of the cessation of municipal water service to the Durable Coatings facility, the YCUA July 7, 2010, Cease and Desist Order, and the termination of the non-sanitary wastewater industrial user permit, the observed waste materials would be considered "abandoned" and, thereby, "discarded" which would assign the materials a Part 111 and 40 CFR 262 and 265, et. al. regulatory status, thereby, requiring the timely characterization and appropriate storage and off-site appropriate management of said materials.

DNRE staff estimate the volume of these waste liquids and unused process liquids and chemicals and unused process liquids and chemicals to be on the order of 30,000 to 50,000 gallons, to include four 5,000 gallon "plastic" portable storage tanks and one 12,000 gallon stationary (i.e., affixed) steel above-ground storage "crash" tank (i.e., formerly used for temporary process liquid storage when a paint line goes down) within the Durable Coatings building structure with other various containers and totes situated throughout the structure. Waste liquids are also reportedly present within structures and appurtenances associated with the Durable Coatings "inoperable" pre-treatment WWTP.

Durable Coatings personnel were not able to provide to DNRE staff during the completed site visits documentation that would confirm the nature of the stored waste liquids and unused process liquids and chemicals in the form of product data sheets, waste characterization and waste approval documentation, Material Safety Data Sheet (MSDS) documentation, Land Disposal Restriction (LDR) documentation, or other documentation (i.e., manifest documentation, bills-of-lading, etc.) that would confirm non-hazardous liquid industrial waste (LIW) or otherwise hazardous waste characterization of the waste liquids and unused process liquids and chemicals. As referenced above, this documentation is required to be maintained on site during on-site storage and accumulation of said materials and made available for DNRE staff and others review for a period of not less than three years from the date that the waste was last sent to on-site or off-site treatment, storage, and/or disposal.

Pursuant to the aforementioned State and Federal statutory and regulatory requirements associated with the observed abandoned waste liquids and unused process liquids and chemicals, Durable Coatings is required to ensure compliance with the waste characterization, on-site storage, and off-site management provisions related to the observed site-generated wastes and unused process liquids and chemicals. Characterization of Durable Coatings generated waste may be in the form of testing the waste according to methods set forth in Subpart C of 40 CFR §261 and/or characterization by generator knowledge of all waste components of that waste stream. LDR documentation would be required to be developed for waste materials identified to be characteristic or listed hazardous waste.

To further clarify Part 121 of Act 451 characterization requirements associated with LIW materials to include abandoned waste liquids and unused process liquids and chemicals:

Section 12101 Definitions; B. to L. of Part 121.

- (n) "Liquid industrial waste" means any brine, by-product, industrial wastewater, leachate, off-specification commercial chemical product, sludge, sanitary sewer clean-out residue, storm sewer clean-out residue, grease trap clean-out residue, spill residue, used oil, or other liquid waste that is produced by, is incident to, or results from industrial, commercial, or governmental activity or any other activity or enterprise determined to be liquid by method 9095 (paint filter liquids test) as described in "Test methods for evaluating solid wastes, physical/chemical methods," United States Environmental Protection Agency publication no. SW-846, and which is discarded.

Section 12103 Generator; duties.

- (a) Characterize the waste in accordance with section 12101(n) and the requirements of part 111 and rules promulgated under that part and maintain records of the characterization.

Please provide in a response to this letter provisions made by Durable Coatings to address the aforementioned requirements associated with the waste characterization, on-site storage, and off-site management provisions related to the observed abandoned site-generated wastes and unused process liquids and chemicals.

Inasmuch as Durable Coatings and its representatives have indicated that it is unclear the timing of Durable Coatings reinitiating electrocoating (e-coating) operations at the reviewed location, please provide a schedule for completion of these activities that are not able to be completed by the December 29, 2010, required response date of this letter.

2. Rule 299.9306 of Part 111; 40 CFR §262.34; 40 CFR §265.31; Section 12113 of Part 121: Durable Coatings is required to maintain/operate the facility in a manner that minimizes the possibility of fire, explosion, and/or the release of hazardous waste or hazardous waste constituents which could threaten human health and the environment.

DNRE staff noted during the completed site visits and reviews that the accumulated waste liquids and unused process liquids and chemicals are being stored within the Durable Coatings building structure outside of viable secondary containment that would ensure minimization of the potential of a catastrophic release of waste liquids and unused process liquids and chemicals from the noted containment tanks, totes and containers reaching "Outfall 2" within the West loading dock. Engineering drawings of the Durable Coatings property depict Outfall 2 leading directly through a storm sewer conveyance to the Rouge River, which bounds the Durable Coatings property's western boundary, approximately 60 feet removed from the Durable Coatings West loading dock. It is suspected that a catastrophic release from these tanks would likely reach the Rouge River in short order through the storm water conveyance.

As noted above, DNRE staff understand that Durable Coatings is not operating out of the reviewed location and is only attended sporadically by a tenant within an adjoining business.

Pursuant to the aforementioned State and Federal statutory and regulatory requirements associated with the observed abandoned waste liquids and unused process liquids and chemicals, Durable Coatings is required to ensure compliance with the required environmental and human health standards by proper waste management procedures to include ensuring compliance with the waste characterization, on-site storage, and off-site management provisions related to these materials.

Please provide in a response to this letter provisions made by Durable Coatings to address the aforementioned requirements associated with protection of the environment and human health related to the observed abandoned site-generated wastes and unused process liquids and chemicals.

Inasmuch as Durable Coatings and its representatives have indicated that it is unclear the timing of Durable Coatings reinitiating e-coating operations at the reviewed location, please provide a schedule for completion of these activities that are not able to be completed by the December 29, 2010, required response date of this letter.

While not a specific violation, the following additional issues were identified by ERMD staff during the course of the inspections. This is provided to assist Durable Coatings in maintaining compliance, avoid future noncompliance, or request additional information necessary to make a compliance determination.

- A. Inasmuch as it might be determined that the aforementioned liquid waste materials and unused process liquids and chemicals would be characterized as a hazardous waste, the noted volume of waste liquids and unused process liquids and chemicals and unused process liquids and chemicals would appear to warrant notification of Durable Coatings as a Large Quantity Generator (LQG) of hazardous waste (i.e., a facility generating over 1,000 kilograms or 2,200 pounds of hazardous waste during a calendar month or a facility generating more than one kilogram per calendar month of acutely hazardous waste). Should this be the case, please complete pre-populated form EQP5150-v (enclosed) to confirm the current hazardous waste and LIW generation status of the reviewed Durable Coatings facility, and submit that form to the DNRE, ERMD, Notification Unit, Post Office Box 30241, Lansing, Michigan 48909-4797. As any such future submittal would be a "subsequent submittal to update site information," there would not be a fee associated with this notification.

Should Durable Coatings' hazardous waste and LIW generation status change again in the future at this location, please resubmit an updated EQP5150 form (enclosed) to reflect ongoing hazardous waste and LIW generation, including in the comments section any appropriate clarifications on the generation status changes (i.e., one-time cleanup, off-specification materials being handled as waste, expected time frame the company will be in that generation status, etc.). In submitting update notifications, you would utilize the current site identification number assigned the Durable Coatings property.

- B. Additionally, inasmuch as it might be determined that Durable Coatings is operating as a LQG of hazardous waste, various requirements would apply to Durable Coatings' accumulating hazardous waste from on-site activities to include, but not necessarily be limited to, waste minimization certification (i.e., R 299.9304 of Part 111 and 40 CFR §262.20); biennial reporting (i.e., R 299.9308 of Part 111 and 40 CFR §262.41); 90-day on-site accumulation time period and associated limitations for accumulated hazardous waste (i.e., R 299.9306 of Part 111 and 40 CFR §262.34 and 40 CFR §§265.170 to 177); hazardous waste accumulation area containment and protection of the environment (i.e., Rule 299.9306 of Part 111; 40 CFR §§262.34, 264.175, and 265.31); and accumulation area closure (i.e., R 299.9306 of Part 111 and 40 CFR §§262.34, 265.111 and 265.114).

Please provide in a response to this letter provisions made by Durable Coatings to address the aforementioned requirements associated with Durable Coatings' operating as a LQG of hazardous waste as might be determined from waste characterization of the accumulated waste materials and unused process liquids and chemicals.

- C. Inasmuch as it might be determined that the noted volume of waste liquids and unused process liquids and chemicals would warrant notification of Durable Coatings as a LQG of hazardous waste, Durable Coatings would be required to have a hazardous waste storage area which includes an impervious base, free of cracks or gaps, a sloped floor or a floor designed to elevate and protect containers from contact with liquids; the capacity to hold 10% of the volume of containers or the volume of the largest container (whichever is greater), and run on prevented unless sufficient capacity with accumulated liquids removed in a timely manner to prevent overflow.

DNRE staff review of the Durable Coatings facility did not find it to include the aforementioned design features associated with a designated 90-day hazardous waste accumulation area that would confirm its capacity to hold the above-noted volumes of hazardous waste that may be inadvertently released.

In response to this letter, please document provisions made by Durable Coatings to ensure compliance of the facility with the aforementioned human health and protection of the environment requirements associated with Durable Coatings' operating as a LQG of hazardous waste as might be determined from waste characterization of the accumulated waste materials and unused process liquids and chemicals to include facility modifications that will be implemented to ensure the appropriate secondary containment is afforded to hazardous waste materials accumulated within a Durable Coatings designated 90-day hazardous waste accumulation area.

- D. Uniform hazardous waste manifests used for the shipment of hazardous waste and LIW are required to have copies of generator uniform hazardous waste manifest documents forwarded to the DNRE, Manifest Unit, by the tenth day of the month following the shipment off site to one of the following addresses:

MANIFESTS WITH COVER LETTER

Department of Natural Resources and Environment
Environmental Resource Management Division
Manifest Unit
Post Office Box 30241
Lansing, Michigan 48909-7538

MANIFESTS ONLY

Department of Natural Resources and Environment
Environmental Resource Management Division
Manifest Unit
Post Office Box 30038
Lansing, Michigan 48909-7538

- E. Inasmuch as DNRE staff substantiated during the completed site visits the potential for the on-site storage of "abandoned" and, thereby, "discarded" hazardous waste and LHW waste liquids and unused process liquids and chemicals to potentially result in the release of hazardous and/or non-hazardous waste constituents to the ground surface and to storm sewer drains servicing the Durable Coatings facility potentially affecting the adjoining surface waters of the Rouge River, Durable Coatings may be contacted by other DNRE divisions to include the Remediation Division (RD) and the Water Resources Division (WRD) of the DNRE to address statutory and regulatory requirements under the purview of the RD and WRD, respectively.

Durable Coatings should immediately initiate the actions specified above and any other actions necessary to correct the above cited violations. Additionally, please submit a program for compliance with the violations alleged herein and a response to the issues/comments noted in this letter to this office at the address listed on the letterhead provided by **December 29, 2010**. The DNRE will evaluate your response, determine the Durable Coatings compliance status at the above-referenced location, and notify you of this determination.

At a minimum, your response should explain the cause of the violations, action taken to correct the violations, what steps are being taken to prevent reoccurrence of the violations, and the duration of the violations, including whether the violations are ongoing. If the violations are not resolved by the date of your response, your response should include a work plan that describes what equipment will be installed, procedures that will be implemented, processes or process equipment that will be shut down, or other actions that will be taken and by what dates these actions will take place to resolve the violations.

The failure of Durable Coatings to perform waste characterizations, as required, and to manage the generation, accumulation and proper disposal of on-site waste materials may result in escalated enforcement actions including, but not limited to, an Order with penalties for associated violations or a referral to the Office of the Attorney General. Please be advised that pursuant to Part 111, in addition to any other relief granted, a court may impose a civil fine of up to \$25,000.00 for each instance of violation and, if the violation is continuous, for each day of the continued noncompliance.

December 1, 2010

If you have any questions, please feel free to contact me at the telephone number below, by email at DayJ@michigan.gov, or DNRE, ERMD, 27700 Donald Court, Warren, Michigan 48092-0982.

Sincerely,

James A. Day
Environmental Quality Analyst
Environmental Resource Management Division
Southeast Michigan District Office
586-753-3835

Enclosures

cc: Ms. Heidi Peterson, Epic Enterprises
Mr. Luther Blackburn, YCUA
Mr. Donald P. Weaver, Northville Township Department of Public Services
Captain Guy Balok, Northville Township Fire Department
Mr. Lawrence AuBuchon, DNRE
Ms. Jodie Peace, DNRE
Mr. Andrew Bahrou, DNRE
Ms. Jill Placco, DNRE

bcc: Mr. Lonnie Lee, DNRE
Mr. John Craig, DNRE
Mr. Gary Tuma, DNRE
Ms. Teresa Seidel, DNRE
Ms. Wilhemina McLemore, DNRE
Ms. Hae-Jin Yoon, DNRE
Mr. Paul Owens, DNRE